
Government of the District of Columbia



District of Columbia Department of Human Resources

Testimony of
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Director

*BILL 17-185, THE "JOBS FOR D.C. RESIDENTS
AMENDMENT ACT OF 2007"*

BEFORE THE

COMMITTEE ON WORKFORCE DEVELOPMENT AND
GOVERNMENT OPERATIONS

AT A PUBLIC HEARING

Carol Schwartz, Committee Chair
Council of the District of Columbia

Monday, June 4, 2007
1:00 p.m.

John A. Wilson Building
1350 Pennsylvania Avenue, NW, Room 412
Washington, DC 20004

Good afternoon, Chairman Schwartz and Members of the Committee on Workforce Development and Government Operations. I am Brender L. Gregory, Director of the D.C. Department of Human Resources. I am pleased to have the opportunity to testify before you today in support of Bill 17-185, the "Jobs for D.C. Residents Amendment Act of 2007."

The Jobs for D.C. Residents Amendment Act requires that qualified applicants who are District of Columbia residents receive a five-point preference over qualified non-District residents for all positions in the Career, Educational, Management Supervisory and Legal service; qualified District applicants receive an additional five-points on any register established under the Comprehensive Merit Personnel Act notwithstanding any other preference points or preference programs; subordinate agencies provide monthly reports to the Council detailing the names, position titles, pay schedules and place of residents of all new employees; the Mayor conduct an annual audit of employees who claim residency preference to ensure compliance with the residency preference laws; and, that all independent agencies not subject to the Mayor's authority are subject to the preference points and audit provisions of the Act.

The District of Columbia government has always been committed to hiring its own residents and has taken the lead in establishing a residency requirement for senior management staff that make and implement policies on behalf of District residents. As such, all subordinate agency heads and excepted service appointments must establish residency in the District of Columbia within six months from being appointed to their positions. At the lower levels, a qualified applicant that claims residency preference if hired, must retain residency in the District of Columbia for a period of five years. According to a recent pay roll run, 41.8 percent of the District's workforce, not including the D.C. Public Schools, are residents of the District. In 2002, 47% of the District's work force were D.C, residents, a loss of 5.2% in five years.

Under the current residency preference rules and procedures:

- Residency preference is given by adding 5 points to the “*rating and ranking score*” of each qualified applicant claiming or entitled to residency preference. The *rating and ranking score* is used to determine if applicants who meet the minimum qualifications for the position being advertised are “Qualified” (Q), “Well Qualified” (WQ), or Highly Qualified” (HQ”). This is known as the *categorical ranking*. [Section 301.8 of Chapter 3 of the regulations, Residency]

I would summarize the “guiding principles” of the current residency preference system by quoting the following language from the Report of the Council’s Committee on Government Operations on PR 8-95, the Residency Preference System for District Residents for Employment in the Career Service Rules Approval Resolution of 1989:

“The intent is to establish a process whereby once the rating and ranking process for all applicants for a particular position is completed, if two of the applicants are relatively equally qualified, the applicant who is a District resident and applies for consideration on a preferential basis would be hired over a District or non-District resident who did not elect to be considered for employment on a preferential basis.”

This proposed bill would add “an additional five preference points” over and above the 5 points currently added through the *rating and ranking score* process under the system that I just described. In addition, an applicant would also be able to invoke the residency preference standard in the case where a DC resident and a non-District resident have equal or similar qualifications.

While I support the ability to provide additional preference points to DC residents, I think adding five points at the rating and ranking stage and then an additional five points once the register is established will lead to confusion and will result in mistakes. The Bill does not specify how the points are to be added. For example, it is

not clear whether the intent of the bill is to add five additional points at the interview stage. This would be more difficult to monitor since subordinate agencies have the flexibility to conduct panel interviews, one-on-one interviews or to conduct a paper review and select a candidate based on qualifications presented in the D.C. form 2000 and supporting documentation. For this reason, I recommend that the ten-point preference be applied at the rating and ranking stage. To this end, Section 709(a) should be amended to read as follows: *“Notwithstanding the provisions of the Human rights Act, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 2-1401, et. Seq), and the Residency Preference Amendment Act of 1988, effective January 6, 1989 (D.C. Law 7-203; D.C. Code § 1-608.01(e), each qualified District resident shall receive ten preference points over a qualified non-District resident applicant for all positions in the Career, Educational, Management and Legal Services. This ten-point preference shall be in addition to, and not instead of, qualifications established for the position and any preference points awarded under any other preference program.”*

If passed, this bill would greatly increase the chances of District residents being placed on the certificate of eligibles and also have the opportunity to be interviewed for positions. Once interviewed, however, subordinate agencies would be required to select the person claiming residency preference where it is demonstrated that the DC applicant and the non-resident applicant are equally qualified; that is to say both applicants have similar work experience, depth of experience, no suitability issues or the same suitability issues. In addition, this bill will not restrict subordinate agencies from choosing the best qualified applicant even if the best qualified applicant is a non-resident, provided that the agency can demonstrate superior qualifications by the non-resident applicant.. This bill would ensure that subordinate agencies document and justify the selection of non-residents over DC residents when there are inequities between the resident and the non-resident..

I also support section 709 (c) of the proposed bill limiting the issuance of waivers to those positions designated as hard to fill and only in exceptional circumstances. Since taking office in January 2007, Mayor Fenty has not granted any residency waivers to Executive and Excepted Service employees. However, the Mayor needs the authority

to grant waivers under the appropriate circumstances. The proposed bill provides the flexibility needed to hire those individuals in hard to fill technical or other critical positions whose superior credentials are needed in order for the District to meet critical program needs. However, this authority should ultimately rest with the mayor. Accordingly, I recommend that this section be amended to read as follows: *“Each subordinate agency may petition the Mayor to authorize a non-resident employment waiver. The Mayor may grant a waiver of the hiring preference only in exceptional circumstances for positions designated as hard to fill.”* This amendment would reflect the established practice for obtaining a waiver. Currently, before a waiver can be granted, the subordinate agency must first demonstrate that the position is hard to fill. In its request to DCHR, the agency must outline the critical need to be addressed, the efforts made to attract qualified applicants to the position and the reasons why granting a waiver of the residency requirement would result in the hire of a qualified applicant.

I also fully support continuing and expanding the residency requirements to apply to the independent agencies and holding them to the same standards as the subordinate agencies under the Mayor’s authority.

I also recommend amending D.C. Code 1-609.06 to allow verification of residency for Executive and Excepted Service appointments to consist of a D.C. Driver’s License or Non-Driver’s Identification Card, an executed rental agreement or contract for the sale of property, and three other forms of proof taken from a list of items approved by the Mayor. Currently, Excepted and Executive Service appointees must submit 15 different types of proof of residency as verification of domicile. This is too burdensome to the appointee. All Excepted and Executive Service appointees should be required to demonstrate that they have taken steps to establish a residence in the District of Columbia. The rental lease or contract to purchase real estate would meet that requirement as well as a valid District of Columbia Driver’s License. Since an applicant for a D.C. Driver’s License has already submitted several forms of proof of residency prior to being issued a license, the fact that a license has been issued should be sufficient proof that the appointee has met the residency verification process. As

such, it is appropriate for DCHR to rely on the verification procedures of its sister agency and only then require four additional forms of verification from an approved list.

Accordingly, it is my recommendation that D.C. Code 1-609.06(d) (3) (A) – (K) be deleted in its entirety and replaced by the following:

Proof of the intent to change his or her domicile to the District of Columbia and acquire a principal place of residence in the District of Columbia shall include the following documents in addition to the requirements in section 305.3 of the District of Columbia Personnel Regulations:

(A) A rental agreement or contract for the sale of real property located in the District of Columbia,

(B) A copy of a District of Columbia Driver's License or Non-Drivers Identification Card, and

(C) Three other forms of verification from a list approved by the Mayor.

I also support the proposals for increased reporting and auditing of those employees who are or would benefit from residency preferences or are subject to residency requirements. However, this increased oversight function presents some challenges.

Prior to the enactment of the 2000 amendments to the CMPA, the D.C. Department of Human Resources had a dedicated team of auditors who would routinely verify residency and investigate complaints of non-compliance. However, this function has been eliminated as DCHR decreased in staff size through attrition and budget cuts. To that end, DCHR's role over the last seven years has been to conduct residency preference hearings in those cases where complaints have been lodged against persons claiming residency preference. In order to meet the reporting, auditing and investigation requirements outlined in this legislation, DCHR would need to re-establish the unit. It is my recommendation that DCHR's authorized strength is

increased to include the hire of one investigator/auditor and a hearing examiner. The auditor/investigator would be responsible for reviewing records and working with the Office of Tax and Revenue and other District agencies to obtain verification of employee residences. In the past, DCHR then DCOP would review tax records, driver licenses; other financial records, etc determine whether employees that claimed residency preference were in compliance with the law. A preliminary review of the information contained in People Soft suggests that approximately 1200 employees have claimed residency preference. This number does not include those persons who may have claimed residency preference prior to 2005 when the District formally adopted the People Soft program. Accordingly, DCHR would have to conduct yearly audits of at least 1200 personnel files. Without additional resources, DCHR would not be able to fully meet the audit requirements under the proposed bill. In addition, DCHR may need to make changes to its automated personnel reporting system (Peoplesoft) to further refine how it captures residency preference data.

Finally, while I support holding the independent agencies to the same standards as subordinate agencies under the Mayor's authority, I recommend adjusting the language in Title II of the bill that governs the audit monitoring sections of the various statutes to include a quarterly reporting requirement. The hiring process itself takes an average of 60 days. As such, most agencies will not hire new employees each month. For this reason, a quarterly reporting requirement would capture all new hires.

In closing, I support Bill 17-185 and recommend its passage subject to the amendments I have suggested.